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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,467	07/11/2002	Martin John Charles Offa-Jones	THOM-0020	4678

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/070,467

**Applicant(s)**OFFA-JONES, MARTIN JOHN  
CHARLES**Examiner**

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the United Kingdom on July 11, 2000. It is noted, however, that applicant has not filed a certified copy of the British application as required by 35 U.S.C. 119(b). Form 903 indicates that a copy of the British application has not been received. In accordance with MPEP 1893.03(c):

If applicant has not forwarded a certified copy of the priority application in time for the International Bureau to forward it to the U.S. Designated Office with the copy of the international application, then applicant will have to provide a certified copy of the priority document during the national stage to fulfill the requirement of 37 CFR 1.55(a)(2).

### ***Specification***

The abstract of the disclosure is objected to because the term "EVA" (page 4, line 3) is not explicitly given its full name --ethylene vinyl acetate-- and it is suggested that applicant include this in the specification for clarity to a reader unfamiliar with the abbreviation. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Claims 1-7 are objected to because of the following informalities: The terms "the margin" (claim 1, line 5); "the opposing margin" (claim 1, line 6); "the face remote from the hook or hooks" (claim 4, line 3) lack clear antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dorman et al. (US 2797463).

Dorman et al. (figure 3) teaches a reclosable fastener for garments, wearing apparel and other articles, comprising two elements, each element comprising two portions 9, 10 releasably engageable with a two portions 18, 19 of the other element, and each element comprising an upstanding post 14, 30 at the margin of the fastener which is engageable with a heel 31, 15 of the other element at the opposing margin of said other element, wherein the respective posts and heels of the two elements are complementarily angled at their respective contact surfaces. This construction keeps the extreme free edges of the marginal portions of the strips protected and confined thereby preventing accidental lifting and displacement of the free edges of the strip and provides an additional sealing action for the interlocked strips when the engaged strips are subject to a fluid pressure (col. 3, lines 11-39). While the device is not stated as being for plastic bags and other containers, the fastener of Dorman is inherently capable of being used for such purposes.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorman (US 2797463) in view of Bentsen (US 4673383).

Dorman et al. (figure 3) teaches a reclosable fastener for garments, wearing apparel and other articles, comprising two elements, each element comprising two portions 9, 10 releasably engageable with a two portions 18, 19 of the other element, and each element comprising an upstanding post 14, 30 at the margin of the fastener which is engageable with a heel 31, 15 of the other element at the opposing margin of said other element, wherein the respective posts and heels of the two elements are complementarily angled at their respective contact surfaces. This construction keeps the extreme free edges of the marginal portions of the strips protected and confined thereby preventing accidental lifting and displacement of the free edges of the strip and provides an additional sealing action for the interlocked strips when the engaged strips are subject to a fluid pressure (col. 3, lines 11-39). While the device is not stated as being for plastic bags and other containers, the fastener of Dorman is inherently capable of being used for such purposes. The difference is that the fastening heads 33 of the releasably engageable portions are bulbous not hooks. However, Bentsen (figures 1, 2) teaches that it is old and well known to use two hooks on opposite fastening elements that are engageable with each other so as to form a better seal for bags. It would have been obvious to modify the fastener of Dorman et al. so that the fastening heads of the releasably engageable portions are hooks not bulbous portions in view of Bentsen (figures 1, 2) teaching that it is old and well known to use two hooks on opposite fastening elements that are engageable with each other so as to form a

better seal for bags. As to claims 3 and 4, it would have been obvious to modify the fastener of Dorman et al. so that ribs are used to secure the base member to the web or film in view of Bentsen teaching reclosable closure structure with a flange with a flange extending to the right on the upper member in figure 1 and to the left on the lower member in figure 1 wherein ribs 17 are placed so that there is a single rib at the ends of the flanges so as to have securement at the edges of the flanges.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorman (US 2797463) in view of Bentsen (US 4673383) as applied to claim 4 above, and further in view of Custer et al. (US 5216787).

Further modification of the fastener of Dorman et al. so that sealant material is coextruded onto each rib as shown by Bentsen would have been obvious in view of Custer et al. (figure 3) teaching that it is desirable to do so in order to have intermediate ribs 325 between the closure and adhesive ribs that act as a tie material to better match the material of the closure to that of the adhesive wherein it is desirable to have the materials co-extruded so that there is a stronger securement. Further modification of the fastener of Dorman et al. so that the sealing material is EVA would have been obvious in view of Custer et al. (col. 10, lines 20-24) who teach the use of EVA as being desirable for its bonding qualities.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorman (US 2797463) in view of Kapperman et al. (US 6004032).

Dorman et al. (figure 3) teaches a reclosable fastener for garments, wearing apparel and other articles, comprising two elements, each element comprising two

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portions 9, 10 releasably engageable with a two portions 18, 19 of the other element, and each element comprising an upstanding post 14, 30 at the margin of the fastener which is engageable with a heel 31, 15 of the other element at the opposing margin of said other element, wherein the respective posts and heels of the two elements are complementarily angled at their respective contact surfaces. This construction keeps the extreme free edges of the marginal portions of the strips protected and confined thereby preventing accidental lifting and displacement of the free edges of the strip and provides an additional sealing action for the interlocked strips when the engaged strips are subject to a fluid pressure (col. 3, lines 11-39). While the device is not stated as being for plastic bags and other containers, the fastener of Dorman is inherently capable of being used for such purposes. The difference is that both fastener elements have a flange. Further modification of the fastener of Dorman et al. so that a single flange is provided on only one of the two interengaging elements of the fastener for engagement to a film or web would have been obvious in view of Kapperman et al. (figure 11) teaching a reclosable fastener comprising a male/female 152, 154 closure between a pair of opposed base members secured to package walls 156, 158 respectively, wherein a single flange extends upwardly from the female member 154 and is inherently capable of being used for attachment of the closure to a web or film through the statement that the female profile 154 is secured to a package wall 158 (col. 9, lines 44-45). There are no flanges extending from either side of the base of the male member 152.

### ***Conclusion***

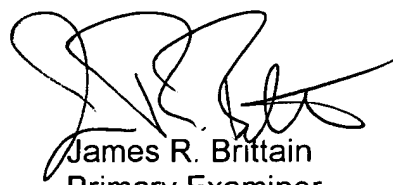
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Japanese publication 4-294747, Johnson (US 5577305), Branson et al. (US 4964739), Woods et al. (US 5192135), Tilman et al. (US 5573614; US 5462360), Malin (US 6167597), Borchardt et al. (US 5774955), Boeckmann et al. (US 4733778), and Parniske et al. (US 6026761) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB  
March 10, 2003